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10/589,673	05/21/2007	Masaki Kaneda	0670-7083	9942
31780	7590	02/02/2009	EXAMINER	
ERIC ROBINSON			MAWARI, REDHWAN K	
PMB 955			ART UNIT	
21010 SOUTHBANK ST.			PAPER NUMBER	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/589,673

**Applicant(s)**

KANEDA ET AL.

**Examiner**

REDHWAN MAWARI

**Art Unit**

3663

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

***Response to Amendment***

1. This Office Action is responsive to Applicant's amendment and request for reconsideration of application 10/589, 673 filed on October 14, 2008.

The amendment contains amended claims: 1-6. Claims 1-6 are rejected under a new ground of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mannesmann (EP1 106 968 A1) in view of Kozak (6,415,226)

Consider claim 1, Mannesmann discloses a guide route search device, the device comprising:

a specification unit adapted to specify a plurality of locations which a user drops in before reaching a destination (abstract, and figure 4);

a calculation unit adapted to calculate an arrival time at each of the specified locations when successively visiting those locations in each of the via-sequence patterns generated by the route pattern generation unit while avoiding passing through congested places and/or places which may be congested in accordance with predetermined traffic information,(figure 2, 3, and 4);

a judgment unit adapted to judge whether the calculated arrival time of each location matches conditions for an arrival time at each location ([paragraph 0016], and figure 4); and

a selection unit adapted to select the via-sequence being an optimum route via the locations where the judgment unit has judged that the conditions are matched at all the specified locations, as a via-sequence of the guide route ([abstract]).

Mannesmann does not explicitly disclose a route pattern generation unit adapted to generate all via-sequence patterns in each of which the specified locations are visited once in sequence (see at least col. 14, lines 36-67)

Kozak teaches a route pattern generation unit adapted to generate all via-sequence patterns in each of which the specified locations are visited once in sequence (see at least col. 14, lines 36-67)

Accordingly, it would have been obvious to an ordinary skilled person in the art at the time of the invention to combine the invention of Kozak into the invention of Mannesmann for the purpose of improving the route planning estimation.

Consider claim 2, Mannesmann in view of Kozak discloses the calculation unit comprises:

- a determination part for determining a via-sequence of the specified plurality of via-locations (see at least Mannesmann abstract);

- a search part for searching a route between two consecutive locations in the via-sequence (see at least Mannesmann col. 6, lines 54-57);

- a re-search part for re-searching a route between the two locations when the searched route includes a congested place and/or a place which may be congested, so as to avoid the congested place and/or the place which may be congested (see at least Mannesmann [paragraph 0016] and [paragraph 0017] and figure 4); Mannesmann doesn't explicitly disclose a re-search part, however Mannesmann discloses updating the travel plan based on various conditions; and

- a time calculation part for calculating an arrival time at each of the locations, either based on a travel time between the two locations of a route searched by the search part when the route searched by the search part does not include a congested place and/or a place which may be congested, or based on a travel time between the two locations of a route re-searched by the re-search part when the route searched by the search part includes a congested place and/or a place which may be congested (see at least Mannesmann figure 2, 3, and 4);

Consider claim 3, Mannesmann in view of Kozak discloses a specification unit adapted to specify a plurality of locations (see at least Mannesmann abstract, and figure 4);

A route pattern generation unit adapted to generate all via-sequence patterns in each of which the specified locations are visited once in sequence;

a search unit adapted to search a route between two successive locations; each of the via-sequence patterns generated by the route pattern generation unit (see at least Mannesmann col. 6, lines 54-57);

a first time calculation unit adapted to calculate an arrival time at each of the locations based on a travel time between the two locations in the route searched by the search unit (see at least Mannesmann figure 2, 3, and 4);

a first judgment unit adapted to judge whether the arrival time of each location calculated by the first time calculation unit matches an arrival time condition at each location (see at least Mannesmann [paragraph 0016], and figure 4);

a re-search unit adapted to re-search a route between the two locations when the route which has been judged by the first judgment unit to match the arrival time condition includes a congested place and/or a place which may be congested, so as to avoid the congested place and/or the place which may be congested (see at least Mannesmann [paragraph 0016] and [paragraph 0017] and figure 4); Mannesmann doesn't explicitly disclose a re-search part, however Mannesmann discloses updating the travel plan based on various conditions

a second time calculation unit adapted to calculate an arrival time at each of the locations based on a travel time between the two locations in the route re-searched by the re-search unit; Mannesmann doesn't explicitly disclose a second time calculation unit; however it would have been obvious to an ordinary skilled person in the art to recognize that the time location unit can calculate the arrival time based on the first time inputs as well as the second time inputs i.e. research.

a second judgment unit adapted to judge whether the arrival time at each location calculated by the second time calculation unit matches the arrival time condition at each location, Mannesmann doesn't explicitly disclose a second judgment unit; however it would have been obvious to an ordinary skilled person in the art to recognize that the time location unit can calculate the arrival time based on the first time inputs as well as the second time inputs i.e. research; and

a selection unit adapted to select as the via-sequence of a guide route a single via-sequence from the via-sequences where the first judgment unit has judged that the conditions are matched at all the locations specified and which do not include congested places and/or places which may be congested, and from via-sequences where the second judgment unit has judged that the conditions are matched at all the locations specified (see at least Mannesmann [abstract]).

Mannesmann does not explicitly disclose a route pattern generation unit adapted to generate all via-sequence patterns in each of which the specified locations are visited once in sequence

Kozak teaches a route pattern generation unit adapted to generate all via-sequence patterns in each of which the specified locations are visited once in sequence (see at least col. 14, lines 36-67)

Accordingly, it would have been obvious to an ordinary skilled person in the art at the time of the invention to combine the invention of Kozak into the invention of Mannesmann for the purpose of improving the route planning estimation.

Consider claim 4, Mannesmann discloses wherein the second time calculation unit operates so as to generate arrival times for all the selected locations whenever a travel time between the two locations is computed (figure 2, 3, and 4), and

the judgment unit operates so as to judge whether the arrival time of each location generated by the time calculation unit matches the arrival time condition at each location whenever a travel time between the two locations is computed ([paragraph 0016], and figure 4).

Consider claim 5, Mannesmann discloses wherein the first judgment unit operates so as to judge whether the arrival time at each location calculated by the first time calculation unit matches a guide time slot at each location ([paragraph 0016], and figure 4);

the second judgment unit operates so as to judge whether the arrival time at each location calculated by the second time calculation unit matches a guide time slot at each location, Mannesmann doesn't explicitly disclose a second



judgment unit; however it would have been obvious to an ordinary skilled person in the art to recognize that the time location unit can calculate the arrival time based on the first time inputs as well as the second time inputs i.e. research; and the re-search unit operates so as to re-search a route between the two locations in which the arrival times at a portion of or all of the locations are judged by the first judgment unit to be earlier than the respective guide time slots thereof, and when the route includes congested places and/or places which may be congested for via-sequences where the arrival times of the remaining locations match the respective guide time slots thereof, re-searches a route between the two locations so as to avoid the congested places and/or the places which may be congested ([paragraph 0016] and [paragraph 0017] and figure 4); Mannesmann doesn't explicitly disclose a re-search part, however Mannesmann discloses updating the travel plan based on various conditions.

Consider claim 6, Mannesmann in view of Kozak discloses the method comprising the steps of:

- specifying a plurality of locations which a user drops in before reaching a destination (see at least Mannesmann [paragraph 0002]);

- generating all via-sequence patterns in each of which the specified location are visited once in sequence

- calculating the arrival time at each of the specified locations when successively visiting those locations in one via-sequences (see at least Mannesmann [paragraph 0011, 0016]) while avoiding passing through congested

places and/or places which may be congested in accordance with predetermined traffic information, the one of via-sequences being any one of all possible routes via those locations ([paragraph 0018]); Mannesmann doesn't explicitly disclose predetermined traffic information, however it would have been obvious to an ordinary skilled person in the art to recognize that the traffic information would be predetermined prior to transmitting it to users.

judging whether the calculated arrival time of each location matches conditions for an arrival time at each location (see at least Mannesmann [paragraph 0011]); and

selecting the via-sequence being an optimum route via the locations wherein it has been judged by the judging step that the conditions are matched at all the specified location, as a via-sequence of the guide route (see at least Mannesmann [paragraph 0009]).

Mannesmann does not explicitly disclose generating all via-sequence patterns in each of which the specified location are visited once in sequence

Kozak teaches generating all via-sequence patterns in each of which the specified location are visited once in sequence (see at least col. 14, lines 36-67)

Accordingly, it would have been obvious to an ordinary skilled person in the art at the time of the invention to combine the invention of Kozak into the invention of Mannesmann for the purpose of improving the route planning estimation.

*Note: Claims 1-5 recite that the statements "adapted to", "operate", "wherein", etc. performs a function is not a positive limitation but only requires the ability to so perform. It doesn't constitute a limitation in any patentable sense.*

### **Response to Arguments**

4. Applicant's arguments have been fully considered but are not persuasive. In particular the applicant argues, A) Mannesmann does not disclose predetermined traffic information (page 9, *Id.*). Further, Mannesmann does not teach generating all possible routes via a plurality of locations which a user drops in before reaching a destination, either explicitly or inherently. In contrast, in the present invention, a plurality of locations (in which a user drops before reaching a destination) are specified in advance and all via-sequence patterns, in each of which the specified locations are visited once in sequence, are generated. B) The Official Action concedes that Mannesmann does not teach "a re-search part" (pages 6 and 8, Paper No. 20080630), "a second time calculation unit" (page 6, *Id.*), "a second judgment unit" (pages 6-7 and 8, *Id.*) and "predetermined traffic information" (page 9, *Id.*). The Official Action asserts that these features would have been obvious to one of ordinary skill in the art at the time of the present invention. However, the Applicant respectfully submits that it would not have been obvious to one of ordinary in the art at the time of the invention to modify Mannesmann to include the above-referenced features of amended independent claims 1, 3 and 6.

In response to A) examiner respectively disagrees. When examining an application, personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. E-Pass Techs., Inc. v. 3Com Corp., 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also In re Zletz, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

In this case, the claimed invention as claimed uses terms that only require the ability to perform the functions. For example, applicant uses the terms "route pattern generation unit adapted to", "a determination part for", and "a search part for". Examiner rejected the claimed invention using a structure that is capable of performing such functions. Mannesmann shows in Fig. 1 subsystems that are working together to generate an optimum route based on the user's input. For instance, Block 24 represents the travel planning for various destinations that is fed by a navigational system with timing information. Mannesmann discloses in Fig. 1 subsystems that are communicating with each other to form a route planning system that allows a user to enter a set of interval points or destinations locations with associated timing indications, and based on information entered by the user as well as information from external events such as traffic jams, said system generates an optimum route that accommodate the user's

desire. Accordingly, by providing a system that is capable of performing such functions, all limitations in the claims have been given a patentable weight.

Examiner suggests applicant changes the above terms to for example, "configure to".

In response to B) see response to arguments in A.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Redhwan Mawari whose telephone number is 571 270 1535. The examiner can normally be reached on 7:30 AM - 5PM Mon-Fri Eastern Alt Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

01/18/2009

/R. M./  
Examiner, Art Unit 3663

/Tuan C To/  
for Mawari, Redhwan, Examiner of Art Unit 3663/3600